



American Mobile Telecommunications Association

EX PARTE OR LATE FILED

**PRESIDENT & CEO**

Alan R. Shark, CAE

**GENERAL COUNSEL**

Elizabeth R. Sachs, Esq.  
Lukas, McGowan, Nace & Gutierrez

February 24, 1995

**RECEIVED**

**(FEB 24 1995)**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

William F. Caton, Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554


**Re: Notice of written ex parte presentation  
PR Docket No. 93-144**

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

On February 24, 1995, the American Mobile Telecommunications Association, Inc. (AMTA) delivered copies of a written ex parte presentation in the above-captioned docket to the following FCC staff members: Rosalind K. Allen, Chief, Commercial Division of the Wireless Telecommunications Bureau; David Furth, Deputy Chief; Regina Keeney, Chief of the Wireless Telecommunications Bureau; Ruth Milkman, Senior Legal Advisor to Chairman Reed Hundt; Rudolfo Baca, Legal Advisor to Commissioner James H. Quello; David Siddall, Legal Advisor to Commissioner Susan Ness; and Jill Luckett, Legal Advisor to Commissioner Rachelle Chong. A copy of the written presentation is attached to this Notice.

An original and one copy of this Notice have been submitted.

  
Jill M. Lyon  
Director of Regulatory Relations

Attachment

No. of Copies rec'd 011  
List A B C D E

# AMTA

American Mobile Telecommunications Association

**PRESIDENT & CEO**

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February 23, 1995

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Rosalind K. Allen, Chief  
Commercial Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, NW, Room 5202  
Washington, DC 20554

Re: 800 MHz SMR Wide-area Licensing (PR Docket No. 93-144)


Dear Ms. Allen:

As you know, AMTA has been working diligently toward an SMR industry consensus position in the above-captioned matter, while keeping the FCC informed as to our direction and progress. Over the last few months, our efforts have included numerous meetings of members and non-members, traditional and wide-area SMR operators. Our initial Comments in this proceeding reflected the differences among segments of the industry; the Commission graciously extended the filing date for Reply Comments so that we could continue our consensus-building.

Within the last two days, AMTA's efforts have resulted in a tentative consensus which is now before our Board of Directors for its members' approval. Enclosed please find a copy of the memorandum outlining the proposal. Please note that, since the vote on this proposal is not yet complete, we do not yet know whether the proposal will be included in this form in AMTA's Reply Comments. However, we wish to notify the Commission of our progress and possible success.

We appreciate the Bureau's and the Commission's interest in our efforts. If there are any questions concerning the attached proposal, please do not hesitate to call Liz Sachs or me.

Sincerely,



Jill M. Lyon

Dir. Regulatory Relations

Enc.

cc: David Furth, Deputy Chief  
Ms. Ruth Milkman  
Mr. Rudolfo Baca  
Mr. David Siddall  
Ms. Jill Lockett



**To:** Regulatory Forum Attendees  
AMTA Board of Directors

**From:** Jill M. Lyon, Dir. of Regulatory Relations

**Re:** 800 MHz SMR wide-area licensing (PR Docket No. 93-144) -- Reply  
Comments proposal

**Date:** February 23, 1995

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As agreed at the AMTA Regulatory Forum held Tuesday, February 21, this is a summary of proposals for AMTA's Reply Comments in the above-mentioned proceeding on which there appeared to be consensus among Forum attendees. Since attending members did not discuss all details of these proposals, and due to time constraints, some necessary details have been added as staff recommendations, along the lines of the developing consensus.

Along with Forum attendees, please note that this summary is being sent to AMTA's Board of Directors as our proposed Reply Comment position. To bolster the presentation of the above package as an industry consensus position, we urge AMTA Board members, Regulatory Forum attendees and other members to incorporate these proposals, where possible, into their own comments in this proceeding. ***AMTA Board members -- to provide enough time to draft comments, we must have your vote on this proposal no later than 5:30 pm on Monday, February 27, along with your waiver of the seven-day notice rule.*** We will also notify the FCC of our developing consensus.

The focus of the Regulatory Forum was to find a consensus position that would best accomplish three goals: to 1) enhance the present and future value of the SMR spectrum; 2) ensure that the SMR industry can compete within the FCC's defined CMRS marketplace; and 3) provide an effective time line to advance the SMR industry through this transitional phase. Some AMTA members have advocated a

position that would include a predetermined pool of channels for retuning and wide-area licenses for retuned licensees. AMTA has learned through meetings with a wide variety of members that, while such a solution would be highly desirable, members do not believe that plan to be workable given the scarcity of available spectrum. Another proposal was needed. Based on the Regulatory Forum discussion, the following is a draft proposal to be included in AMTA's Reply Comments:

1. **Geographic Areas.** Licenses in the 200-channel "upper band" should be awarded on a clustered-BEA basis (four BEAs around major metropolitan areas -- after Bureau of Economic Analysis revisions, there will be 172 BEAs; therefore, 43 clustered BEAs). There was discussion of moving to two blocs per geographic area, or one; however, no change was made to AMTA's position in its Comments supporting the FCC's proposed four blocs of 50 channels each. Mutually exclusive applications would be resolved through auctions.

2. **Coalitions/Partitioning.** Wide-area auction rules should be flexible, allowing coalitions of bidders for wide-area licenses and partitioning of the clustered-BEA service area following license grant, providing that the licensee coalition meets applicable construction/coverage requirements.

3. **Notification.** Within six months following grant of a wide-area license, licensees must notify incumbents on the wide-area channels of the wide-area licensee's desire to reconfigure the existing system on different channels. Notification would not bind the wide-area licensee to reconfiguring the systems of every incumbent notified. Incumbents not receiving such notice would not be subject to any future reconfiguration unless part of a voluntary agreement.

4. **Reconfiguration Premiums.** Incumbent licensees that volunteer for reconfiguration of their systems within one year would receive the following "premiums":

- full cost compensation and comparable spectrum within the 800 MHz SMR band (if the wide-area licensee cannot provide this, no reconfiguration would occur; also, this requirement would remain in place for all reconfiguration);

- tax certificates;

- prospective 70- mile co-channel protection;

- current 70-mile co-channel protection wherever possible on the new

channels, while affording protection to existing operators;

-- incentives would be fully transferable to third parties.

5. **Alternative Dispute Resolution (ADR).** All parties involved in 800 MHz SMR wide-area reconfiguration negotiations would be entitled to the full benefits of the FCC's ADR procedures.

6. **Progressive Reconfiguration.** Wide-area licensees making a showing that they have successfully assembled 80% of the existing constructed channels in their wide-area grant through sale, affiliation or reconfiguration agreements with incumbents within one year after license grant, will be entitled to mandatory reconfiguration of remaining notified incumbents. The required percentage for such application would drop to 65% after two years and 50% after three years. After four years following license grant, the wide-area licensee would be entitled to mandatory reconfiguration of any remaining notified incumbents. (Note: due to frequency re-use, it is likely that many channels will be licensed more than once within a clustered BEA; the percentage must include all "licensings" of each channel.)

7. **Lower Band channels.** Following reconfiguration of incumbent licensees from the upper band, any remaining SMR spectrum would be licensed on a BEA basis, with mutually exclusive applications to be resolved through auctions. Auction rules should again permit bidding coalitions, to encourage agreements among existing licensees. AMTA continues to urge the FCC to prospectively allocate the General Category channels (nos. 1-150) for SMR use only, along with the remaining 80 channels of the current SMR allocation.

8. **Auction Preferences.** Auction rules for all portions of the SMR band should include preferences for incumbent licensees within the geographic area seeking to expand existing SMR systems that include constructed channels. No preferences are necessary for designated entities.